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Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 11 April 2003 from the Permanent Mission of Sweden to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Sweden to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and has the honour to acknowledge receipt of his note dated 4 March 2003.

Resolution 1455 (2003) calls upon all States to submit an updated report to the Committee no later than 90 days from the adoption of the resolution on all steps taken to implement the measures imposed by paragraph 4 (b) of resolution 1267 (1999), paragraph 8 (c) of resolution 1333 (2000) and paragraphs 1 and 2 of resolution 1390 (2002). Sweden's report on the implementation of resolution 1455 (2003) is enclosed (see annex).

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Annex to the note verbale dated 11 April 2003 from the Permanent Mission of Sweden to the United Nations addressed to the Chairman of the Committee

Report by Sweden on the implementation of Security Council resolution 1455 (2003)

Security Council resolution 1455 (2003) calls upon all States to report within 90 days to the Committee established pursuant to resolution 1267 (1999). This report is set out according to the guidelines circulated by the Chairman of the Committee.

I. Introduction

Since the early 1990s the Swedish Security Service has identified persons resident in Sweden with connections to al-Qa'idah. The distinction between sympathizer and active supporter is often unclear and the extent of involvement/connection is often influenced by active supporters as well as by international developments. Continued attention to developments in Sweden is therefore deemed necessary in order to correctly assess the extent of activities in Sweden.

Al-Qa'idah's ambition and intention to target American, British and Israeli interests and goals are well documented. It could therefore not be ruled out that American, British and Israeli interests could be potential targets for al-Qa'idah network also in Sweden.

II. Consolidated list

1. The individuals on the United Nations list are incorporated in the Swedish national system through the European Union (national list). The Committee's list has been incorporated into Swedish legislation through Council regulation (EC) 881/2002 of 27 May 2002, imposing certain specific restrictive measures directed against certain persons and entities associated with Osama bin Laden, al Qa'idah network and the Taliban, and repealing Council regulation (EC) 467/2001 prohibiting the export of certain goods and services to Afghanistan, strengthening the flight ban and extending the freeze of funds and other financial resources in respect of the Taliban of Afghanistan.

2. No problems have been identified with implementation with regard to names and identifying information as currently included in the list.

In the light of the fact that many of the persons and entities on the list do not have any identification number or similar number in connection with the name, some problems were discovered when the financial institutions put the Council regulation into practice. On a case-by-case basis consultation was undertaken with the National Police Authority to sort out the problems.

The Swedish Missions abroad shall report to the Ministry for Foreign Affairs or the Migration Board which persons have been denied visas etc. Sweden has so far

not experienced any of the problems referred to in the question. (See further section IV below, Travel ban).

3. No designated individuals or entities have been identified by the authorities inside Swedish territory.

To the knowledge of the Swedish Financial Supervisory Authority, three individuals and three entities have been identified as designated individuals and entities within the Swedish territory (see Council regulation (EC) 881/2002), namely Adirisak Aden, Abdi Abdulaziz Ali and Yusaf Ahmed Ali (individuals) and Barakaat International Foundation, Barakaat International and Somali Network AB (entities). The following individuals were however removed from the list by 4 September 2002: Abdi Abdulaziz Ali and Adirisak Aden.

4. No comments.

5. During the autumn of 2001 there were three Swedish citizens listed on the Committee's list, in addition to three Swedish companies. The three citizens, of Somali descent, were working with the Swedish branches of al-Barakaat. The persons brought the case to the Court of First Instance of the European Communities (Order T-306/01 R 1, *Aden and Others v Council and Commission*) and they also asked for temporary relief. They were not granted temporary relief, and the case on the merits is still pending in the Court of First Instance. Two of the Swedish citizens have now been de-listed.

6. Three Swedish citizens have previously been listed. Two have been taken off the list, the third remains.

7. This answer could be divided into the following categories:

Terrorist acts

Persons committing terrorist acts are punished in accordance with the general provisions of the Penal Code. Terrorist acts may take the form of a number of specific offences, for example, murder, kidnapping, arson, devastation, endangering the public, sabotage, hijacking, maritime or air traffic sabotage, airport sabotage and spreading poison or a contagious substance. All these crimes are punishable by imprisonment for life. The Penal Code also provides for prosecution for acts being executed or planned from Sweden against other States or citizens. The Swedish legislation on jurisdiction is far-reaching.

Furthermore, in order to fulfil the obligations in the International Convention for the Suppression of the Financing of Terrorism a new act on penalty for financing serious crimes entered into force on 1 July 2002. According to the act it is punishable to collect, provide or receive money or other funds with the intention that they should be used, or with the knowledge that they are to be used, to commit serious crimes which in international conventions are classified as terrorism. The attempt to commit such crimes is also punishable.

Within the European Union a framework decision on combating terrorism was adopted in June 2002. The framework decision contains a definition of what kinds of act will be regarded as terrorist crimes. In order to fulfil the obligations laid down in the framework decision the Government has proposed a new act on specific terrorist crime, which would enter into force in July 2003.

Unlawful recruiting

A person who recruits people for military or comparable service without the authority of the Government can be sentenced for unlawful recruiting to a fine or imprisonment for at most six months or, if the Kingdom is at war, to imprisonment for at most two years (chap. 19, section12, of the Penal Code).

Preparation or conspiracy to commit a crime

Under chapter 23, section 2, of the Penal Code, a person who procures, constructs, gives, receives, keeps conveys or engages in any other similar activity with poisons, explosives, weapons, picklocks, falsification tools or other such means with the intention of committing or promoting a crime shall in certain designated cases be sentenced for preparation of a crime unless he or she is found guilty of having attempted to commit or committed the crime. In certain designated cases a sentence shall also be imposed for conspiracy. Conspiracy is defined as a decision to act in collusion with another person, or an offer to undertake or execute a crime, or the attempt to incite another person to do so.

The Special Control of Foreigners Act

The Special Control of Foreigners Act, the so-called terrorist law, allows the authorities to act even before there is full evidence of a crime being planned. Under this law, the Government can expel a foreigner if this is deemed necessary to the security of Sweden or if there are reasons to suspect that he or she will commit or take part in crimes involving violence, threats or coercion for political purposes. The law is not limited to terrorist crimes suspected of being committed in Sweden. It is also applicable when there are reasons to suspect that the person will commit or take part in such crimes abroad.

III. Financial and economic asset freeze

1. Relevant Community regulations are directly applicable in Sweden. On 6 March 2001, the European Union adopted Council regulation (EC) 467/2001, which implemented Security Council resolutions 1267 (1999) and 1333 (2000). This regulation contains rules about the freezing of funds and other financial assets and resources. To this regulation was attached the then current United Nations list of individuals and organizations targeted by the sanctions. Since then as many as 13 Commission regulations have been adopted to ensure that the list of the European Union corresponds to the consolidated list of the United Nations. Based on the regulations, assets can be frozen directly without any further implementation in Swedish law.

In addition, there is a Swedish law (Lag 2002:444) on financing of terrorism, implementing sanctions on giving financial assistance to criminals including terrorists. This law is based on United Nations General Assembly resolution 54/109 concerning the suppression of the financing of terrorism.

2. At governmental level each ministry is responsible for measures against terrorism in its own area of competence. As far as the international aspects are concerned, the Ministry for Foreign Affairs is in charge of general coordination. The

Prime Minister's Office also has a role in coordinating the Government's internal and external efforts in the area.

Within the Swedish National Police Board framework, the Swedish Security Police has an overall responsibility for counter-terrorism work in Sweden. The Swedish Security Police, which is a security intelligence service, has a long history of extensive international cooperation, mainly with other security and intelligence services, inter alia, on terrorism, including financing of terrorism. The latter issue means close cooperation with the Swedish Financial Police, other security and intelligence services, and to some extent with Europol.

3. Banks and other financial institutions are obliged to apply the conditions in Council regulation (EC) 881/2002 in their day-to-day business, i.e., to examine if the customer is one of the listed individuals or entities, and if the customer is a listed person the institution has to freeze the funds. Banks and financial institutions also have to observe the conditions in the Swedish Act on measures against financing of terrorism. According to the latter, banks and other financial institutions have to apply "due diligence" and "know your customer" to any suspicious customer or transaction. Banks and the majority of the financial institutions are subject to the prudent supervision of the Swedish Financial Supervisory Authority. Money remittance and exchange dealers are subject to the supervision of the Swedish Financial Supervisory Authority.

4. (a) In accordance with Council regulation (EC) 881/2002 (467/2001) Swedish banks and financial institutions have frozen assets of the Swedish individuals and entities listed in that regulation (for names see section II, para. 3, above).

(b) The frozen assets are connected to bank deposits.

(c) The frozen assets amount to SKr 1,2 million.

5. There have been no decisions taken regarding humanitarian exemptions according to the responsible authority, the National Social Insurance Board.

6. Sweden has as a member of the European Union to follow the regulations of the Council (i.e., regulation (EC) 881/2002). Sweden has also implemented the International Convention for the Suppression of the Financing of Terrorism by Swedish legislation. The Swedish Financial Supervisory Authority has also published regulations concerning measures for the prevention of the financing of terrorism.

(a) In connection with the significant event on 11 September 2001 in New York, the Swedish Financial Supervisory Authority sent to every institution under its supervision a letter containing inter alia information about Council regulation 467/2001 and what the institutions had to do to avoid being used for terrorist financing. The Swedish Financial Supervisory Authority thereafter informed every institution under its supervision by letter, by mail via the trade organizations and through the Swedish Financial Supervisory Authority's web site about changes in the Council regulation. At present the Swedish Financial Supervisory Authority communicates changes to the banks and financial institutions by mail via the trade organizations and through the Swedish Financial Supervisory Authority's web site. (www.fi.se)

(b) According to Council regulation (EC) 467/2001 a financial institution should report a suspicious transaction to the Ministry for Foreign Affairs. Under Council regulation (EC) 881/2002, the Swedish Financial Supervisory Authority is the receiver of Suspicious Transaction Reports. Since Council regulation (EC) 881/2002 came into force, on 27 May 2002, there have not been any Suspicious Transaction Reports. In accordance with the Swedish Act on measures against financing of terrorism, however, financial institutions have to report Suspicious Transaction Reports to the National Police Authority.

(c) Every financial institution, including money remittance and exchange dealers, has to fulfil the same requirements as a bank concerning Council regulation (EC) 881/2002 and the Swedish Act on measures against financing of terrorism.

(d) The Kimberley Process certification scheme was implemented in the European Union in 2002 by a Commission regulation. The regulation is directly applicable in Sweden. (Commission regulation (EC) 418/2003 of 6 March 2003 amending Council regulation (EC) 2368/2002 implementing the Kimberley Process certification scheme for the international trade in rough diamonds and rectifying Commission regulation (EC) 257/2003.)

(e) These entities have to fulfil the same requirements as a bank concerning Council regulation (EC) 881/2002 and the Swedish Act on measures against financing of terrorism.

IV. Travel ban

1. Administrative measures taken by Sweden to implement the travel ban: The Ministry for Foreign Affairs or the Migration Board submits instructions to Swedish Missions abroad to implement the travel ban.

2. Yes, Sweden has included the names of the listed individuals in the national lists.

3. The border controls are continuously provided with updated lists from the National Police Authority.

4. No listed individuals have crossed into Swedish territory to our knowledge (at least not with the listed identity).

5. No listed individuals have crossed into Swedish territory to our knowledge (at least not with the listed identity).

V. Arms embargo

1. The export of arms is governed by the Military Equipment Act. As a general rule, Swedish legislation does not permit the export of conventional arms, but exemptions from the prohibition can be made case by case. The scrutiny of each individual case is governed by a set of government guidelines covering the export of military equipment. The guidelines contain a series of conditions. Some of these are of an absolute nature. These include embargo decisions by the United Nations Security Council. As the Security Council has adopted resolutions regarding Osama bin Laden, members of al-Qa'idah and the Taliban and other individuals, groups,

undertakings and entities associated with them, no export licence will be issued to them.

The control of exports of products and technology that can be used in the production of weapons of mass destruction is governed by the Act on the Control of Dual-Use Items and Technical Assistance and European Union Council regulations (EC) 1334/2000 of June 2000 setting up a Community regime for the control of exports of dual-use items and technology. The latter provide, inter alia, a catch-all mechanism.

Concerning products that can be used in the manufacturing of weapons of mass destruction and carriers of these, Sweden has so far for the most part issued individual licences. A case-by-case review is made in each case taking into consideration the product, the country of destination, the end-user and the end use.

The National Inspectorate of Strategic Products, Sweden's national agency responsible for implementing the export controls, including licensing, cooperates closely with companies that deal with products that can be used in production related to weapons of mass destruction. The companies contact the Inspectorate even in cases concerning products that are not under export control, if the end-user is of concern. The Inspectorate controls the end-user and the end use and determines whether the product should be brought under control through "catch-all" (Council regulation (EC) 1334/2000, article 4).

2. The export of military equipment without an export licence is penalized by fines or imprisonment for up to two years, and in serious cases imprisonment for up to four years.

3. Every arms broker in Sweden needs a licence to act as a broker and conduct the supply of military equipment. If the arms broker is a Swedish authority, Swedish company or a person resident or permanently domiciled in Sweden he needs a licence also for activities that take place abroad. The arms broker has to apply for an export licence in the case of the equipment being located in Sweden and he has the right of disposal over it. If the arms broker, as defined above, wants to supply military equipment from one third State to another third State he needs a licence in each individual case. In this case the arms broker has to apply for a licence and in the application form indicate the buyer, or other recipient, and the end-user of the military equipment supplied. A licence would not be granted if the buyer or end-user is anyone subject to an arms embargo.

4. As long as the equipment supplied is on Swedish territory the Customs authorities can stop an export that does not have the required export licence.

Sweden furthermore applies a control system that requires an end-user certificate for all sales overseas. The usual end-user certificate is an assurance from the recipient country's Government to Sweden that the procured equipment will not be resold without the permission of the Swedish Government. The wording of the certificate is formulated in Sweden and then printed on banknote paper to prevent manipulation and counterfeiting. For the same reasons, there are provisions dictating that a signed certificate should be sent to the National Inspectorate of Strategic Products via the Swedish Embassy in the recipient country. The Embassy checks that the signatory is authorized to sign the certificate. The Inspectorate does not generally deal with an application for an export licence until the end-user certificate is physically in the keeping of the Inspectorate.

Sweden always requires restrictions on re-transfer of controlled goods and approvals from the Inspectorate or the Swedish Government before controlled goods are exported to a third destination by the end-user.

VI. Assistance and conclusion

1. Sweden is of course willing to lend assistance to the extent possible under national rules and regulations, unless such help could compromise investigations or enforcement actions. Sweden would be willing and able to provide assistance on a case-to-case basis to other States, provided that nationals, community and international legislation do not constitute any hindrance for such assistance. Implementation of the resolutions in question has been done in a coordinated way among the member States within the European Union.

2. Sweden has not identified any incomplete implementation of the Taliban/al-Qa'idah sanctions regime or any areas where we believe specific assistance or capacity-building would improve our ability to implement the sanctions regime in question.